GOVERNMENT OF INDIA
COMPANY AFFAIRS
LOK SABHA

UNSTARRED QUESTION NO:1472
ANSWERED ON:03.03.2006
VIOLATION OF COMPANIES ACT, 1956
Agarwal Shri Dhirendra;Rana Shri Kashi Ram

Will the Minister of COMPANY AFFAIRS be pleased to state:

(a) whether several cases of violation of Companies Act, 1956 are pending for disposal;

(b) if so, the number of such cases pending as on date;

(c) the average time taken in the disposal of each case in this regard;

(d) the section of the Companies Act, 1956 under which most violations take place;

(e) the steps taken by the Government for disposal of such cases; and

(f) the success achieved by the Government as a result thereof?

Answer

MINISTER OF COMPANY AFFAIRS (SHRI PREMCHAND GUPTA)

(a), (b) & (c) A total number of 45562 cases were pending in various courts for prosecution for offences under the Companies Act, 1956 as on March 31, 2004. Time taken for disposal of an individual case depends upon the judicial proceedings in the concerned court adjudicating on the offence.

(d) Majority of cases relate to Prosecution for the violations of the provisions of sections 159,162 and 220 of the Companies Act, which pertain to filing of annual returns and balance sheets by the companies registered under the Companies Act, 1956.

(e) After a study of the issues concerning streamlining of the mechanism of prosecution under the Companies Act, 1956 in the light of a report submitted on 19th October, 2005 by an Expert Group set by the Ministry, under the Chairmanship of Shri O.P. Vaish, the Ministry is taking the following measures in this regard:-

(i) Updating of the list of pending prosecution cases, identifying the specific companies involved with a view to seek orders from the respective Courts for substituted service of summons for the same.

(ii) Initiating proceedings u/s 560 against the companies involved in these cases and strike out all such companies as are identified as defunct.

(iii) Filing petitions in the Courts, for withdrawing prosecution in respect of such companies where it is established that ends of justice would not be advanced or furthered by continuing with the prosecution.

(iv) To pursue prosecution vigorously in case of companies not found to be defunct.

(f) It is expected that the above measures would reduce the pendency of the cases before various Courts substantially over a period of time. It would require about one year for the above measures to be fully implemented. At this stage it would be premature to comment on the success or otherwise of these initiatives.